REMARKS

This is a full and timely response to the Office Action mailed November 26, 2008, submitted concurrently with a one month extension of time to extend the due date for response to March 26, 2009.

No claims have been amended in this response. Thus, claims 1-21 are currently pending in this application with claim 21 being withdrawn.

In view of this response, Applicant believes that all pending claims are in condition for allowance. Reexamination and reconsideration in light of the following remarks is respectfully requested.

Rejection under 35 U.S.C. §103

Claims 1-20 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over previously cited Kameda et al. (U.S. Patent No. 5,923,018) in view of newly cited Strum et al. (U.S. Patent No. 5,842,173). Applicant respectfully traverses this rejection.

To establish a *prima facie* case of obviousness, the cited references, in combination, must teach or suggest the invention as a whole, including all the limitations of the claims. Here, in this case, Kameda et al., in combination with newly cited Strum et al., still fails to teach or suggest all of the limitations of the claims with particular emphasis on the limitations "*said program causing said computer to perform: a function for fetching information on contents of the examination and an order of examination for each patient*", "*a function for fetching a waiting time from the medication to the examination set according to a type of examination*" and "*a function for creating an examination schedule to avoid overlapping in time between timing of the medication and the examination for each patient and timing of medication and examination for other patients, based on said information on contents of the examination and an order of examination and the waiting time*".

As described in Applicant's response filed August 4, 2008, the present invention is directed to scheduling for a nuclear medical examination apparatus from medication to examination. The present invention avoids overlapping in time between timing of medication and examination for each patient and timing of medication and examination for other patients, based on information

fetched. In the present invention, **it is the program itself which causes a computer to create and adjust the examination schedule** for the nuclear medical examination apparatus **to avoid overlap in time of timing of the medication and the examinations** for each patient according to said fetching information (on said contents of the examination and said order of examinations), while maintaining fixed a waiting time from the medication to the examination set for each patient according to a type of examination (see paragraphs [0056], [0059], and [0069]-[0072] of the present patent application publication). In other words, based on the fetching information and changes in said information (see claims 17-20), the claimed computer program causes the computer to compute the examination schedule and adjustments thereto to maximize efficient use of the nuclear medical examination apparatus and to prevent errors in examination (see Description of the Related Art section of the present specification)

In contrast, the program of Kameda et al. is only a centralize database program containing patient medical information and examination and treatment schedules which are inputted, added, changed, modified or deleted by the operators of the database program (see column 4, lines 1-7, 13-18, 29-34 and 49-56, of Kameda et al.). Kameda et al. merely discloses a program assisting an operator to create a treatment schedule for each patient by carrying out inputs, changes, deletions, etc. directly from the operator while the operator looks at a displayed table. In other words, the database program of Kameda et al. only stores, organizes and displays the information and schedules inputted by operators and does not create thru computation the examination schedule to avoid overlap in time of timing of the medication and the examinations according to said fetching information while maintaining fixed a waiting time from the medication to the examination set for each patient according to a type of examination. As stated in the title of the patent and the preamble of the claims, Kameda et al. only disclose a *"medical care schedule and record aiding system"*. Hence, Applicant believes that the present invention and Kameda et al. are completely different in technical premise and that the features of the present invention are not at all disclosed in Kameda et al.

Based on the Examiner comments in the Office Action (see item 7(B) of the Office Action), it appears that the Examiner was not persuaded by Applicant's arguments because the Examiner believes that the current claim language does not preclude the involvement of the operator

for examination schedule creation. In other words, the Examiner appears to be interpreting the limitation "*said program causing said computer to perform . . . a function for creating an examination schedule*" as allowing an operator to perform some steps of the function as long as some other steps such as the data retrieval and scheduling display are performed by a computer. However, Applicant believes that the Examiner interpretation is incorrect in this regard.

It is expressly stated in the claims that the **program (and not the operator)** <u>causes to computer to perform functions of</u> (1) "*fetching information on contents of the examination and an order of examination for each patient*", (2) "*fetching a waiting time from the medication to the examination set according to a type of examination*" and (3) "*creating an examination schedule to avoid overlapping in time between timing of the medication and the examination for each patient and timing of medication and examination for other patients, based on said information on contents of the examination and an order of examination and the waiting time*". In other words, from the examination information and medication wait times of each patient, the program of the present invention expressly requires the computer to create an examination schedule to avoid overlapping in time between timing of the medication and the examination for each patient and timing of medication and examination for other patients. In Kameda et al., the operator, by carrying out inputs, changes, deletions, etc. while looking at a table displayed by the program, does not cause the computer to create an examination schedule to avoid overlapping in time between timing of the medication and the examination for each patient and timing of medication and examination for other patients. These functions <u>are performed by the operator of the program</u> in Kameda et al. and <u>not by the computer</u> since the program of Kameda et al. has no function of comparing the examination information and medication wait times of each patient to avoid overlaps.

The Examiner has attempted to cure this deficiency in Kameda et al. by citing the teachings of Strum et al. (see column 14, lines 10-28, of Strum et al.). However, contrary to the Examiner's arguments, Applicant believes that the limitation "*a function for creating an examination schedule to avoid overlapping in time between timing of the medication and the examination for each patient and timing of medication and examination for other patients, based on said information on contents of the examination and an order of examination and the waiting time*" is still not taught or suggested by Strum et al.

Strum et al., in column 14, lines 10-28, only describes reviewing of throughput of medical equipment by referring to the <u>real-time</u> throughput tracking Gantt chart displaying a schedule for using the medical equipment, and a track record of the medical facilities being used. Strum et al. avoids overlapping in time of patients for certain medical equipment in order to improve throughput of medical equipment in medical facilities. However, no consideration is made for avoiding the overlapping in time between timing of medication and examination for each patient and timing of medication and examination for other patients as claimed in the present invention.

In other words, Strum et al. merely creates a schedule for use of medical equipment by each patient, as a way to avoid overlapping of use of the medical equipment for examination medication and the like. In contrast, the present invention avoids overlapping of medication timing and examination among patients. <u>With the present invention, a schedule can be created such that, during a waiting time between medication timing and examination of a certain patient, other patients are medicated or examined. According to Strum et al., medical equipment is deemed occupied and being used even during a period including a waiting time between medication timing and examination, and therefore other patients cannot be medicated or examined.</u> That is, Strum et al. does not disclose or suggest the technical feature of the present invention, i.e. the "*function for creating an examination schedule to avoid overlapping in time between timing of the medication and the examination for each patient and timing of medication and examination for other patients, based on said information on contents of the examination and an order of examination and the waiting time*". Hence, Strum et al. does not cure the deficiency of Kameda et al.

It should also be noted that Strum et al. only teaches the creation of an examination schedule <u>by bar code or direct keyboard entry</u> as patients are moved from location to location within the hospital. The computer program is only used to analyze the time spent at each hospital location by a statistical description of the distribution of waiting periods and duration of procedures. By examining the statistical trends and outliers, problem areas relating to the servicing of the patient at the hospital can be identified and improvements can be made (see Figures 3 and 10, and column 14, lines 10-28, of Strum et al.). Hence, Strum et al. clearly does not at all teach or suggest the creation and adjustment of the examination schedule thru a computer function since the examination schedule is only created by an operator via scanning of a bar code or keyboard entry. Further, Strum

et al. also clearly does not teach or suggest a computer function for creating the examination schedule to avoid overlapping in time between timing of the medication and the examination for each patient <u>and timing of medication and examination for other patients</u> since the computer program of Strum et al. does not compared the timing of medication and examination for other patients in creating the examination schedule.
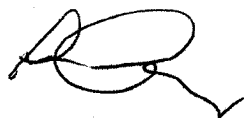
Thus, for the reasons set forth above, the present invention cannot be deemed to be obvious from the teachings and suggestions of Kameda et al. and Strum et al. Hence, withdrawal of the outstanding rejection is respectfully requested.

CONCLUSION

For the foregoing reasons, all the claims now pending in the present application are believed to be clearly patentable over the outstanding rejections. Accordingly, favorable reconsideration of the claims in light of the above remarks is courteously solicited. If the Examiner has any comments or suggestions that could place this application in even better form, the Examiner is requested to telephone the undersigned attorney at the below-listed number.

Dated: March 26, 2009   Respectfully submitted,

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